IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

TUESDAY, THE 24TH JULY 2007 / 2ND SRAVANA 1929

WP(C).No. 15245 of 2007(M)

PETITIONER:

K.VINODAN, AGED 46, S/O.
SMT.THANKAM AMMA, KEEZHEKALATHIL HOUSE,
KUNNAMKULAM, KANIPPAYYUR, THRISSUR DISTRICT.

BY ADV. SRI.G.SREEKUMAR (CHELUR)
SRI.K.RAVI (PARIYARATH)

RESPONDENTS:

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1. THE STATE OF KERALA, REP. BY THE
SECRETARY TO THE GOVERNMENT, EDUCATION
DEPARTMENT, THIRUVANANTHAPURAM.

2. THE DEPUTY DIRECTOR OF EDUCATION,
MALAPPURAM.

3. THE DISTRICT EDUCATIONAL OFFICER,
MALAPPURAM.

4. THE ASSISTANT EDUCATIONAL OFFICER,
PERUNTHALMANNA, MALAPPURAM DISTRICT.

5. K.HIMAVATHY, D/O.THANKAM AMMA,
KEEZHAKALATHIL HOUSE, "HARAM", PALAPPURAM PO,
OTTAPALAM.

6. THE MANAGER, A U P SCHOOL,
CHEMMALA, MALAPPURAM DISTRICT.

BY ADV. SRI.K.M.SATHYANATHA MENON
GOVERNMENT PLEADER SRI.A.J.VARGHESE.
SRI.R.K.MURALEEDHARAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP.15245/2007)

EXT.P1: TRUE COPY OF RELEVANT PAGES OF DOCUEMNT 126/72 DT. 21/12/71.

EXT.P2: TRUE COPY OF ALLEGED POWER OF ATTORNEY DT. 29/12/06.

EXT.P3: TRUE COPY OF REPRESENTATION DT. 20/1/2007.

EXT.P4: TRUE COPY OF REPRESENTATION DT. 16/4/2007.

EXT.P5: TRUE COPY OF REVISION PETITIN DT. 11/7/2007.

EXT.P6: TRUE COPY OF STAYPETITION DT. 11/7/2007.

RESPONDENTS' EXHIBITS:

EXT.R6(A) TRUE COPY OF PARTITION DEED ON 21/12/71.

EXT.R6(B): TRUE COPY OF LETTER DT. 2/4/2007.

EXT.R6(C): TRUE COPY OF APPOINTMENT ORDER DT. 2/4/2007.

EXT.R6(D): TRUE COPY OF APPLICATION DT. 2/4/2007.

EXT.R6(E): TRUE COPY OF PROCEEDINGS OF A.E.O. DT. 4/7/2007.

A.K. Basheer, J.

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W.P(C) No.15245 of 2007

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Dated this the 24th day of July, 2007.

J U D G M E N T

The issue involved in this writ petition relates to the dispute in the management of Chemmala Aided Upper Primary School in Malappuram District within the jurisdiction of Assistant Educational Officer, Perinthalmanna. The prayers in the writ petition are extracted hereunder:

> "(i) To issue an appropriate writ, order or direction commanding respondents 1 to 4 to take appropriate action under Rule 2 Chapter 3 KER for the purpose of reconstituting the educational agency concerning the Chemmala A.U.P. School including framing of rules as concerning the appointments of a manager and other allied matters related to management of the school.
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> (ii) To issue an appropriate writ, order or direction commanding fourth respondent to take up Ext.P3 and P4 and to decide the same in accordance to law within such time as may be fixed by this Hon'ble court."

2. When this writ petition came up for further consideration today, it is brought to my notice that respondent No.4 has passed Ext.R6(e) order approving the appointment of Mrs. Himavathy,

respondent No.5, as the manager of the school without transfer of ownership with effect from April 2, 2007 under Rule 3(c)(ii) of Chapter V KER. In that view of the matter the writ petition has more or less become infructuous.

3. Learned counsel for the petitioner submits that the petitioner has preferred Ext.P5 revision petition against the order passed by respondent No.4 before respondent No.1. Petitioner has also moved Ext.P6 interlocutory application along with the revision petition. In view of the above intervening development, learned counsel submits that petitioner will be satisfied if an appropriate direction is issued to respondent No.1 to take a decision on the revision petition expeditiously. Though respondents 5 and 6 have raised several contentions controverting the claim made by the petitioner, I do not propose to deal with any of such contentions at this stage. It is made clear that this writ petition is being disposed of without considering the merit of the rival contentions of the parties. It will be open to them to raise all those contentions before the revisional authority.

4. In the above facts and circumstances the writ petition is disposed of with a direction to respondent No.1 to consider and pass orders on Ext.P5 revision petition strictly on its merit and in accordance with law, as expeditiously as possible, at any rate within two months from the date of receipt of a copy of this judgment. It will be open to the petitioner to seek appropriate interim orders, if so advised, before the revisional authority. Needless to mention,

respondent No.1 shall ensure that petitioner and respondents 5 and 6 and all others who are likely to be affected by any order that may be passed by respondent No.1, are afforded sufficient opportunity to be heard before any decision is taken in the matter.

In the meanwhile the undertaking given by respondent No.6 before this Court shall remain in force for 10 days from today.

A.K. Basheer
Judge.

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